IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 23810 of 2004(H)

PETITIONER:

SASIDHARAN ARINCHERI, HIGH SCHOOL
ASSISTANT (ENGLISH) GOVT. V.H.S.S.,
MEENCHANTHA, KOZHIKODE DIST.

BY ADV. SRI.KRB.KAIMAL
SRI.B.UNNIKRISHNA KAIMAL

RESPONDENTS:
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1. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
KOZHIKODE.

BY GOVT PLEADER SMT.SMITHA SUKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.23810/04

PETIITONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P(C). 20183/03 DATED 26.6.2003.

EXT.P2: TRUE COPY OF THE ORDER NO.A1-5601/03 DATED 24.6.2003 ISSUED BY THE 2ND RESPONDENT TOGETHER WITH ITS ANNEXURE.

EXT.P3: TRUE COPY OF THE GOVT. LETTER NO.26366/J-1/03/G.EDN. DATED 17.6.2003 TO THE DY. DIRECTOR OF EDUCATION, WAYANAD.

EXT.P4: TRUE COPY OF THE ORDER NO.A1-18608/03 DATED 8.8.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P5: TRUE COPY OF THE ORDER NO.A1-5602/03 DATED 1.11.03 ISSUED BY THE 2ND RESPONDENT TOGETHER WITH ANNEXURE.

EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 5.11.03 SUBMITTED BY THE PETITIONER TO THE 2ND REPSONDENT.

EXT.P7: TRUE COPY OF THE APLICATION DATED 14.11.03 SUBMITTED BY TH EPETITIONER TO THE 1ST RESPONDENT TOGETHER WITH ITS ENCLOSURES.

EXT.P8: TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN WP.(C).2702/04 DATED 23.1.04.

EXT.P9: TRUE COPY OF THE GOVT. ORDER G.O.(MS)NO.177/87/G.EDN. DT.22.8.87.

EXT.P10: TRUE COPY OF THE ORDER NO.A1-5861/04 DT.9.7.04 ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.23810 OF 2004

Dated this the 13th day of July, 2007

JUDGMENT

Petitioner, a P.D. teacher in Kozhikode district from 18.9.1991, passed B.A. degree in History, M.A. degree in English and B.Ed. in English. He had also passed the State Eligibility Test. Following the directions contained in Ext.P1 judgment, his placement as H.S.A., English was ordered, however, without retrospective effect from the due date on which he was entitled to be considered. The objection taken was that the petitioner passed the B.A. degree in History and therefore, does not a degree in English for the purpose of promotion as H.S.A. in English. That question is answered by the Division Bench of this Court in favour of the petitioner in W.A.No.213/97 and later on in **Bose William** v. **State of Kerala** [2002 (2) KLT 34], wherein, it is held that degree includes PG degree, unless the rule specifically states to the contrary. The Government would have amended relevant recruitment rules retrospectively in recognition of the law laid by this Court. Therefore, respondents

are not entitled to contend that the petitioner was disentitled to be promoted from the date which was due to him in terms of availability of vacancy. The plea that he has not officiated from a prior date also does not lie.

In the result, the writ petition is allowed partly directing that the petitioner's placement in the cadre of H.S.A. will be treated as with effect from the date on which his immediate junior stand placed to that cadre. His such placement is hereby declared. Consequently, he will be benefited for all purposes except for drawl of salary during the period for which he has not actually worked.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.